

AMENDED IN ASSEMBLY APRIL 21, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

## Assembly Constitutional Amendment

No. 9

Introduced by Assembly Member Levine

February 6, 2003

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Assembly Constitutional Amendment No. 9—A resolution to propose to the people of the State of California an amendment to the Constitution of the State, by ~~amending Section 4 of Article XIII A thereof, by amending Section 2 of Article XIII C adding Section 4.5 to Article XIII A thereof, and by amending Section 3 of Article XIII D thereof, relating to taxation.~~

### LEGISLATIVE COUNSEL'S DIGEST

ACA 9, as amended, Levine. Local governmental taxation: special taxes ~~and general taxes~~: voter approval.

The California Constitution conditions the imposition of a special tax by a city, county, or special district upon the approval of  $\frac{2}{3}$  of the voters of the city, county, or special district voting on that tax, ~~except that certain school entities may levy an ad valorem property tax for specified purposes with the approval of 55% of the voters within the jurisdiction of these entities. The California Constitution conditions the imposition of a general tax by a city or county upon the approval of a majority of voters of the city or county voting on the tax.~~

This measure would ~~change these voter approval requirements to authorize a city, county, or special district, but not a school entity under certain circumstances, to impose a qualified special tax, as defined, to fund capital infrastructure construction projects, with the approval of a majority of its voters voting on the tax, and authorize a city or county~~

~~to impose a general tax with the approval of  $\frac{2}{3}$  of the voters of the city or county voting on the tax. This measure would also make technical, nonsubstantive, and conforming changes to these provisions a related provision.~~

Vote:  $\frac{2}{3}$ . Appropriation: no. Fiscal committee: no. State-mandated local program: no.

1 *Resolved by the Assembly, the Senate concurring,* That the  
2 Legislature of the State of California at its 2003–04 Regular  
3 Session commencing on the second day of December 2002,  
4 two-thirds of the membership of each house concurring, hereby  
5 proposes to the people of the State of California that the  
6 Constitution of the State be amended as follows:

7 ~~First—That Section 4 of Article XIII A thereof is amended to~~  
8 ~~read:~~

9 ~~Section 4. A city, county, or special district, by a majority~~  
10 ~~vote of its voters voting on the proposition, may impose a special~~  
11 ~~tax within that city, county, or special district, except an ad~~  
12 ~~valorem tax on real property or a transactions tax or sales tax on~~  
13 ~~the sale of real property within that city, county, or special district.~~

14 ~~Second—That Section 2 of Article XIII C thereof is amended~~  
15 ~~to read:~~

16 ~~SEC. 2. Notwithstanding any other provision of this~~  
17 ~~Constitution:~~

18 ~~(a) A tax imposed by any local government is either a general~~  
19 ~~tax or a special tax. A special purpose district or agency, including~~  
20 ~~a school district, has no authority to levy a general tax.~~

21 ~~(b) A local government may not impose, extend, or increase~~  
22 ~~any general tax unless and until that tax is submitted to the~~  
23 ~~electorate and approved by a two-thirds vote of its voters voting~~  
24 ~~on the proposition. A general tax is not deemed to have been~~  
25 ~~increased if it is imposed at a rate not higher than the maximum rate~~  
26 ~~so approved. The election required by this subdivision shall be~~  
27 ~~consolidated with a regularly scheduled general election for~~  
28 ~~members of the governing body of the local government, except~~  
29 ~~in cases of emergency declared by a unanimous vote of the~~  
30 ~~governing body.~~

31 ~~(c) Any general tax imposed, extended, or increased, without~~  
32 ~~voter approval, by any local government on or after January 1,~~  
33 ~~1995, and prior to the effective date of this article, may continue~~

1 ~~to be imposed only if that general tax is approved by a majority~~  
2 ~~vote of the voters voting in an election on the issue of the~~  
3 ~~imposition, which election is held no later than November 6, 1998,~~  
4 ~~and in compliance with subdivision (b).~~

5 ~~(d) A local government may not impose, extend, or increase~~  
6 ~~any special tax unless and until that tax is submitted to the~~  
7 ~~electorate and approved by a majority vote of its voters voting on~~  
8 ~~the proposition. A special tax is not deemed to have been increased~~  
9 ~~if it is imposed at a rate not higher than the maximum rate so~~  
10 ~~approved.~~

11 ~~Third—That Section 3 of Article XIII D thereof is amended to~~  
12 ~~First—That Section 4.5 is added to Article XIII A thereof, to~~  
13 ~~read:~~

14 *SEC. 4.5. (a) Notwithstanding Section 4 or Section 2 of*  
15 *Article XIII C, a city, county, or special district, by a majority vote*  
16 *of its voters voting on the measure at an election, may impose a*  
17 *qualified special tax, except an ad valorem tax on real property or*  
18 *a transactions tax or sales tax on the sale of real property within*  
19 *that city, county, or special district.*

20 *(b) As used in this section, “qualified special tax” means a tax*  
21 *that meets all of the following conditions:*

22 *(1) The measure proposing the tax expressly limits the use of the*  
23 *revenues derived from the tax to fund a specified capital*  
24 *infrastructure construction project or projects.*

25 *(2) The measure proposing the tax specifies either of the*  
26 *following:*

27 *(A) That the tax will be imposed only during a specified time*  
28 *period.*

29 *(B) That the tax will be imposed only until that tax generates*  
30 *revenues that do not exceed 25 percent of the total estimated cost*  
31 *of the capital infrastructure construction project or projects.*

32 *(3) The measure proposing the tax provides a method by which*  
33 *a taxpayer receives a proportional refund of the taxes paid by that*  
34 *taxpayer for any revenues generated by the tax that exceed the final*  
35 *cost of the capital infrastructure construction project or projects.*

36 *(c) This section is a self-executing grant of authority to a city,*  
37 *county, or special district to impose a qualified special tax and*  
38 *does not require legislation to implement this authority.*

39 ~~Second—That Section 3 of Article XIII D thereof is amended to~~  
40 ~~read:~~

1 SEC. 3. (a) An agency may not assess a tax, assessment, fee,  
2 or charge upon any parcel of property or upon any person as an  
3 incident of property ownership except:

4 (1) The ad valorem property tax imposed pursuant to Article  
5 XIII and Article XIII A.

6 (2) Any special tax receiving, as applicable, a ~~majority vote~~  
7 ~~pursuant to Section 4 of Article XIII A or Section 2 of Article~~  
8 ~~XIII C or a 55-percent vote pursuant to subdivision (e) two-thirds~~  
9 ~~vote pursuant to Section 4 of Article XIII A or a majority vote~~  
10 ~~pursuant to Section 4.5 of Article XIII A or a 55-percent vote~~  
11 ~~pursuant to subdivision (c) of Section 1 of Article XIII A.~~

12 (3) Assessments as provided by this article.

13 (4) Fees or charges for property-related services as provided by  
14 this article.

15 (b) For purposes of this article, fees for the provision of  
16 electrical or gas service are not deemed charges or fees imposed  
17 as an incident of property ownership.

